

Feb 13 2020

ODEI “Lowdown” – The True Facts or Relevant Information



SUBJECT: Retaliation

APPLICABILITY: Applicants for, or employees in, Title V and Title 32 technician status

Guidance: Retaliation for Discrimination

An employer may not fire, demote, harass or otherwise "retaliate" against an individual for filing a charge of discrimination, participating in a discrimination proceeding, or otherwise opposing discrimination. The same laws that prohibit discrimination based on race, color, sex, religion, national origin, age, and disability, as well as wage differences between men and women performing substantially equal work, also prohibit retaliation against individuals who oppose unlawful discrimination or participate in an employment discrimination proceeding.

Adverse Action

An adverse action is an action taken to try to keep someone from opposing a discriminatory practice, or from participating in an employment discrimination proceeding. Examples of adverse actions include: employment actions such as termination, refusal to hire, and denial of promotion, other actions affecting employment such as threats, unjustified negative evaluations, unjustified negative references, or increased surveillance, and any other action such as an assault or unfounded civil or criminal charges that are likely to deter reasonable people from pursuing their rights. Adverse actions do not include petty slights and annoyances, such as stray negative

comments in an otherwise positive or neutral evaluation, "snubbing" a colleague, or negative comments that are justified by an employee's poor work performance or history.

Even if the prior protected activity alleged wrongdoing by a different employer, retaliatory adverse actions are unlawful. For example, it is unlawful for a worker's current employer to retaliate against him for pursuing an EEO charge against a former employer.

Covered Individuals

Covered individuals are people who have opposed unlawful practices, participated in proceedings, or requested accommodations related to employment discrimination based on race, color, sex, religion, national origin, age, or disability. Individuals who have a close association with someone who has engaged in such protected activity also are covered individuals. For example, it is illegal to terminate an employee because his spouse participated in employment discrimination litigation.

Individuals who have brought attention to violations of law other than employment discrimination are NOT covered individuals for purposes of anti-discrimination retaliation laws. For example, "whistleblowers" who raise ethical, financial, or other concerns unrelated to employment discrimination are not protected by the EEOC enforced laws.

Protected Activities

The law prohibits discriminating employees (or job applicants) from discouraging the right to operate without employment discrimination. Here are examples of "Protected Activities" that it is unlawful to retaliate against employees for:

- Filing or being a witness to an alleged discrimination
- Communicating with a Manager or Supervisor about any discriminations
- Ability to answer questions about cases during an investigation
- Resisting sexual advances or initiating between an sexual act
- Requesting accommodation for religious practice or disability

Whistleblower Protection Act of 2012

The Whistleblower Protection Enhancement Act of 2012 protects federal employees who disclose evidence of waste, fraud, or abuse. Under the Act, the statement below, upon this or other notice, is incorporated into the SEC's nondisclosure policies, forms, or agreements in effect before the Act's effective date of December 27, 2012:

These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any

other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.

For more information regarding retaliation not covered under anti-discrimination laws you may contact:

Office of Inspector General - (803) 299-2293

Labor Relations - (803) 299-2485

Office of Judge Advocate General - (803) 299-4319

If you have believe you have been subjected to whistleblower retaliation, you may access the files from the OSC website below and either file the complaint online or print the forms and submit by mail.

U.S. Office of Special Counsel – (202) 254-3600

1730 M Street NW, Suite 218

Washington, DC 20036-4505

<http://www.osc.gov>

SCNG ODEI Contact Information

If You Are A Federal Employee or Job Applicant and Believe You Have Been Subjected to Unlawful Discrimination, Harassment or Retaliation on the basis of **race, color, religion, national origin, genetic information, sex, (including pregnancy, gender identity, sexual orientation), age (40 and over), or disability, contact the Office of Diversity, Inclusion, and Equity.**

CPT Sara A. Thompson (Previously Derebery)

State Equal Employment Manager

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